



This document is scheduled to be published in the Federal Register on 05/01/2013 and available online at <http://federalregister.gov/a/2013-10210>, and on [FDsys.gov](http://FDsys.gov)

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

[Docket 2012-0076; Sequence 28]

[OMB Control No. 9000-0045]

**Federal Acquisition Regulation;**

**Submission for OMB Review; Bid Guarantees, Performance and Payment**

**Bonds, and Alternative Payment Protections**

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for an extension of an information collection requirement regarding an existing OMB clearance.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning bid guarantees, performance and payment bonds, and alternative payment protections. A notice was published in the Federal Register at 77 FR 61580, October 10, 2012. One comment was received.

**DATES:** Submit comments on or before [Insert date 30 days after publication in the Federal Register].

**ADDRESSES:** Submit comments identified by **Information Collection 9000-0045, Bid Guarantees, Performance, and Payment Bonds, and Alternative Payment Protections** by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link "Submit a Comment" that corresponds with "Information Collection 9000-0045, Bid, Performance, and Payment Bonds". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000-0045, Bid Guarantees, Performance, and Payment Bonds, and Alternative Payment Protections" on your attached document.

- Fax: 202-501-4067.
- Mail: General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE, Washington, DC 20417. ATTN: Hada Flowers/IC 9000-0045, Bid Guarantees, Performance, and Payment Bonds, and Alternative Payment Protections.

Instructions: Please submit comments only and cite Information Collection 9000-0045, Bid Guarantees, Performance, and Payment Bonds, and Alternative Payment Protections, in all correspondence related to this collection. Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503. All comments received will be posted without change to

<http://www.regulations.gov>, including any personal and/or business confidential information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cecelia L. Davis, Procurement Analyst, Contract Policy Division, GSA (202) 219-0202 or email [Cecelia.davis@gsa.gov](mailto:Cecelia.davis@gsa.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Purpose**

FAR Subparts 28.1 and 28.2; FAR clauses at 52.228-1, 52.228-2, 52.228-13, 52.228-15, 52.228-16; and associated FAR standard forms implement the statutory requirements of the Miller Act (40 U.S.C. 3131 et seq.), which requires performance and payment bonds for any construction contract exceeding \$150,000, unless it is impracticable to require bonds for work performed in a foreign country, or it is otherwise authorized by law. In addition, the note to 40 U.S.C. 3132, entitled "Alternatives to Payment Bonds Provided by the Federal Acquisition Regulation," is implemented in the FAR, which requires alternative payment protection for construction contracts that exceed \$30,000 but do not exceed \$150,000. Although not required by statute, under certain circumstances the FAR permits the Government to require bonds on other than construction contracts. In addition to the contract clauses at FAR 52.228-1, 52.228-2, 52.228-13, 52.228-15, 52.228-16, this information collection covers the following FAR standard forms (SF) as prescribed at FAR Subparts 28.1 and 28.2: SF 25, Performance Bond; SF 25A, Payment Bond; SF 273, Reinsurance

Agreement for a Miller Act Performance Bond; SF 274, Reinsurance Agreement for a Bonds Statute Payment Bond; SF 24, Bid Bond; SF 25B, Continuation Sheet (For Standard Forms 24, 25, and 25A); Standard Form 34, Annual Bid Bond; Standard Form 275, Reinsurance Agreement in Favor of the United States; Standard Form 1416, Payment Bond for Other Than Construction Contracts; Standard Form 1418, Performance Bond for Other Than Construction Contracts; and Standard Form 35, Annual Performance Bond. The information collected under this clearance provides the Government with a form of security that the contractor will not withdraw a bid or assures that the contractor will perform its obligations under a contract.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

#### **B. Analysis of Public Comments.**

A notice was published in the Federal Register at 77 FR 61580, October 10, 2012. One respondent submitted public

comments on the extension of the previously approved information collection. The analysis of public comments is summarized as follows:

**Comment:** The respondent commented on the need for revisions to the standard forms. The respondent suggested that (1) changes be made to the standard forms covered under the information collection to include an additional option regarding the bond principal's "Type of Organization" (i.e., SF 25, SF 25A, SF 24, SF 34, SF 1416, SF 1418, SF 35). Specifically, the respondent requested that an additional check box be added allowing for the choice of "Limited Liability Company (LLC)" to the forms, or, in the alternative, to include a selection of "other". The respondent indicated that construction companies are increasingly forming as limited liability companies, a hybrid type of organization reflecting characteristics of a corporation and of a partnership. The proposed revision would recognize limited liability companies as a type of organization; and (2) the instructions governing the blank space "Liability Limit (\$)" (on forms SF 25, 25A, SF 24, SF 25B, SF 1416, SF 1418) should be enhanced to make clear the intent of the information requested. The respondent, a national trade association of firms employing professional surety bond producers, reported that some confusion exists as to whether the blank refers to the underwriting limitation of the surety as found on the Treasury List of Approved Sureties or if it is intended to indicate a limitation

on the surety's liability on the bond.

**Response:** Because the respondent's suggestions neither question nor affect the information collection estimates included in this request for extension, the request for approval to extend this information collection will be submitted without change. However, the suggested standard form revisions will be researched, and, as determined appropriate, revised as separate actions.

### **C. Annual Reporting Burden**

The estimated annual reporting burden is increased since published in the Federal Register at 74 FR 46988, on September 14, 2009. Based on use of data, from the Federal Procurement Data System, for fiscal year 2011, an upward adjustment is made to the estimated annual reporting burden.

#### **52.228-1 - Bid Guarantee**

(SF 24, Bid Bond; SF 34, Annual Bid Bond)

Respondents:	19,604
Responses per Respondent:	<u>1</u>
Total Responses:	19,604
Hours per Response	<u>1</u>
Total Burden Hours	19,604

#### **52.228-2 - Additional Bond Security**

Respondents:	9802
Responses per Respondent:	<u>1</u>

Total Responses:	9802
Hours per Response	<u>1</u>
Total Burden Hours	9802

**52.228-13 - Alternative Payment Protections**

Respondents:	2,178
Responses per Respondent:	<u>1</u>
Total Responses:	2,178
Hours per Response	<u>1</u>
Total Burden Hours	2,178

**52.228-15 - Performance and Payment Bonds**

(SF 25, Performance Bond; SF 25A, Payment Bond; SF 25B, Continuation Sheet (for SF's 24, 25, and 25A); SF 273, Reinsurance Agreement for a Miller Act Performance Bond; SF 274, Reinsurance Agreements for a Miller Act Payment Bond)

Respondents:	19,604
Responses per Respondent:	<u>1</u>
Total Responses:	19,604
Hours per Response	<u>1</u>
Total Burden Hours	19,604

**52.228-16 - Performance and Payment Bonds - Other than Construction**

(SF 35, Annual Performance Bond; SF 1416, Payment Bond for Other Than Construction Contracts; SF 275, Reinsurance Agreement in Favor of the United States; SF 1418, Performance Bond for Other than Construction Contracts)

Respondents:	4,825
Responses per Respondent:	<u>1</u>
Total Responses:	4,825
Hours per Response	<u>1</u>

Total Burden Hours

4,825

**OBTAINING COPIES OF PROPOSALS:** Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE, Washington, DC 20417, telephone (202) 501-4755. Please cite OMB Control No. 9000-0045, Bid Guarantees, Performance, and Payment Bonds, and Alternative Payment Protections, in all correspondence.

Dated: April 20, 2013.

William Clark,  
Acting Director,  
Federal Acquisition Policy Division,  
Office of Governmentwide Acquisition Policy,  
Office of Acquisition Policy,  
Office of Governmentwide Policy.

[BILLING CODE 6820-EP]

[FR Doc. 2013-10210 Filed 04/30/2013 at 8:45 am; Publication  
Date: 05/01/2013]